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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,765	01/29/2002	Nobuyuki Itoh	201130.408D1	9697
22504	7590	03/15/2006	EXAMINER	
DAVIS WRIGHT TREMAINE, LLP			LI, RUIXIANG	
2600 CENTURY SQUARE			ART UNIT	PAPER NUMBER
1501 FOURTH AVENUE				1646
SEATTLE, WA 98101-1688				

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/060,765	ITOH ET AL.
	Examiner	Art Unit
	Ruixiang Li	1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 15-17 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>Sequence alignment</u> . |

DETAILED ACTION

Status of Application, Amendments, and/or Claims

The amendment filed on 01/11/2006 has been entered in full. Claim 15 has been amended. Claims 15-18 are pending and under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

During a telephone interview with Jane E. R. Potter on February 3, 2006, the Examiner proposed an Examiner's amendment to allow the allowable subject matter. The Examiner called Applicants' representative several times to discuss the issue. However, no answer was given. Accordingly, a non-final rejection is set forth below.

Withdrawn Objections and/or Rejections

The rejection of claims 15-18 under 35 U.S.C. 112, first paragraph for scope of enablement has been withdrawn in view of amended claim 15.

The rejection of claims 15 and 16 under 35 U.S.C. 112, first paragraph for written description has been withdrawn in view of amended claim 15.

Claim Rejections under Double Patenting

The provisional rejection of claim 15-18 under 35 U.S.C. 101 as claiming the same invention as that of claims 15-18 of copending Application No. 10/771, 173 is maintained.

Claim Rejections under 35 USC §102 (e)

Claims 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Edwards et al. (U. S. Patent No. 6639063, October 28, 2003; 102(e) date: August 5, 1999).

Edwards et al. teach a polypeptide comprising amino acids 1 to 79 of the polypeptide of SEQ ID NO: 4 of the present invention (see attached sequence alignment). The polypeptide taught by Edwards et al. comprises the amino acid sequence of SEQ ID NO: 7. Edwards et al. also teach an epitope-containing fragment comprising a contiguous span of at least 10 amino acids of the polypeptide (lines 40-47 of column 20), meeting the limitations of claims 15-17.

Claim Objection

Claim 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

No claims are allowed.

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (571) 272-0875. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00

Art Unit: 1646

pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can be reached on (571) 272-0961.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [Brenda.Brumback@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.



RUIXIANG LI, PH.D.
PRIMARY EXAMINER

Ruixiang Li, Ph.D.
Primary Examiner
March 10, 2006

977	5	2.4	1	US-08-841-483-28	Sequence 28, AppD1
978	5	2.4	2	US-09-932-911-28	Sequence 28, AppD1
979	5	2.4	2	US-09-932-445B-21	Sequence 21, AppD1
980	5	2.4	2	US-09-531-731C-68	Sequence 68, AppD1
981	5	2.4	2	US-09-640-19D-30	Sequence 30, AppD1
982	5	2.4	2	US-09-077-948A-134	Sequence 134, AppD1
983	5	2.4	2	US-09-077-948A-135	Sequence 135, AppD1
984	5	2.4	2	US-09-639-667-28	Sequence 28, AppD1
985	5	2.4	2	US-09-051-738B-57	Sequence 57, AppD1
986	5	2.4	7	US-08-944-133-15	Sequence 15, AppD1
987	5	2.4	7	US-08-945-558-754-403	Sequence 403, AppD1
988	5	2.4	7	US-09-258B-754-422	Sequence 422, AppD1
989	5	2.4	7	US-09-042-107-403	Sequence 103, AppD1
990	5	2.4	7	US-09-004-107-422	Sequence 422, AppD1
991	5	2.4	7	US-09-722-25D5D-403	Sequence 403, AppD1
992	5	2.4	7	US-09-722-25D5D-422	Sequence 422, AppD1
993	5	2.4	7	US-09-676-415A-403	Sequence 403, AppD1
994	5	2.4	7	US-09-676-415A-422	Sequence 422, AppD1
995	5	2.4	7	US-10-607-559-403	Sequence 403, AppD1
996	5	2.4	7	US-10-607-559-422	Sequence 422, AppD1
997	5	2.4	7	PCT-US9-01840-B	Sequence 9, AppD1
998	5	2.4	7	5194592-40	Patent No. 5194592
999	5	2.4	8	US-08-841-483-29	Sequence 29, AppD1
1000	5	2.4	8	US-09-045-632-102	Sequence 102, AppD1

RESULT 1
Sequence 4, Application US/09715805
Patent No. 6716626
GENERAL INFORMATION:
APPLICANT: Itoh, Naoyuki
APPLICANT: Kavanaugh, W. Michael
TITLE OF INVENTION: HUMAN FGF 21 GENE
TITLE OF INVENTION: PRODUCTS
FILE REFERENCE: PP-16758-0001/2011130
CURRENT APPLICATION NUMBER: US/09715805-4
CURRENT FILING DATE: 2000-11-16
NUMBER OF SEQ ID NOS: 17
SOFTWARE: FastSEQ for Windows Ver1

```

; Patent No. 6504530
; GENERAL INFORMATION:
; APPLICANT: Thomason, Arlen
; APPLICANT: Liu, Benxian
; TITLE OF INVENTION: Fibroblast Growth Factor-Like Polypeptides
; FILE REFERENCE: 99-371
; CURRENT APPLICATION NUMBER: US/09/390,207
; CURRENT FILING DATE: 1999-09-07
; NUMBER OF SEQ ID NOS: 41
; SOFTWARE: Patentin Ver. 2.0
SBO ID NO 2
; LENGTH: 209
; TYPE: PRT
; ORGANISM: Homo sapiens
US-09-390-207-2

Query Match Score 82.8%; DB 2; Length 209;
Best Local Similarity 100.0%; Pred. No. 3.3e-158;
Matches 17; Conservative 0; Mismatches 0; Indels 0
Qy 1 MDSDTGPEHSGLTVLMSVLAGLIGACOAHPIDDSSPLIQGGVQRQYLYTDD
Db 1 MDSDTGPEHSGLTVLMSVLAGLIGACOAHPIDDSSPLIQGGVQRQYLYTDD
Qy 61 LEIRDGTIVGAAQDQSPESLQLKALPKGVIOILGVKTSRFLQRPDGALYGG
Db 61 LEIRDGTIVGAAQDQSPESLQLKALPKGVIOILGVKTSRFLQRPDGALYGG
Qy 121 CSFRELLGEQVNTYQSEAHGLPLHLPGNKSPHRDPAPRGPARFLPLPGLPP
Db 121 CSFRELLGEQVNTYQSEAHGLPLHLPGNKSPHRDPAPRGPARFLPLPGLPP

RESULT 3
US-09-390-207-5
; Sequence 5; Application US/09390207
; Patent No. 6504530
; GENERAL INFORMATION:
; APPLICANT: Thomason, Arlen
; APPLICANT: Liu, Benxian
; TITLE OF INVENTION: Fibroblast Growth Factor-Like Polypeptides
; FILE REFERENCE: 99-371
; CURRENT APPLICATION NUMBER: US/09/190,207
; CURRENT FILING DATE: 1999-09-07
; NUMBER OF SEQ ID NOS: 41
; SOFTWARE: Patentin Ver. 2.0
SEQ ID NO 5
; LENGTH: 181
; TYPE: PRT
; ORGANISM: Homo sapiens
US-09-390-207-5

Query Match Score 69.4%; DB 2; Length 181;
Best Local Similarity 100.0%; Pred. No. 2.3e-131;
Matches 145; Conservative 0; Mismatches 0; Indels 0
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Db 1 HPIIDSSPLIQGGVQRQYLYTDDAQQTAEHLIREDTGVSSGAADQSPESLI
Qy 89 GVIQLGKVTSRFLQRPDGALYGSIHFDEACSFREILLEDQYVTOSEAH
Db 61 GVIQLGKVTSRFLQRPDGALYGSIHFDEACSFREILLEDQYVTOSEAH
Qy 149 NKSPHRDPAPRGPARFLPLPGLPPA 173
Db 121 NKSPHRDPAPRGPARFLPLPGLPPA 145

RESULT 4
US-09-671-976-5213
; Sequence 5213; Application US/09621976
; Patent No. 6639863

```

GENERAL INFORMATION:
 / APPLICANT: Dumas Milne Edwards, J.B.
 / APPLICANT: Jobert, S.
 / APPLICANT: Giordano, J.Y.
 / TITLE OF INVENTION: ESTs and Encoded Human Proteins.
 / FILE REFERENCE: GENSET_0.4PR2
 / CURRENT APPLICATION NUMBER: US/09/621,976
 / CURRENT FILING DATE: 2000-07-21
 / NUMBER OF SEQ ID NOS: 19335
 / TYPE: PRT
 / ORGANISM: Patent_pm
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 / NAME/KEY: UNSURE
 / LOCATION: 57
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 / NAME/KEY: UNSURE
 / LOCATION: 52
 / OTHER INFORMATION: Xaa = Leu, Val
 US-09-621,976-5213

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 Best Local Similarity 100.0%; Pred. No. 3e-66;
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Qy 61 LEIREDTVGGAADQSPES 79
 Db 61 LEIREDTVGGAADQSPES 79

RESULT 5
 US-09-390-207-6
 Sequence 6, Application US/09390207
 Patent No. 6504530
 GENERAL INFORMATION:
 / APPLICANT: Thomson, Arlen
 / APPLICANT: Liu, Benxian
 / TITLE OF INVENTION: Fibroblast Growth Factor-Like Polypeptides
 / FILE REFERENCE: 99-371
 / CURRENT APPLICATION NUMBER: US/09/390,207
 / CURRENT FILING DATE: 1999-09-07
 / NUMBER OF SEQ ID NOS: 41
 / SOFTWARE: PatentIn Ver. 2.0
 / SEQ ID NO: 6
 / LENGTH: 181
 / TYPE: PRT
 / ORGANISM: Mus musculus
 US-09-390-207-6

Query Match 14.4%; Score 30; DB 2; Length 181;
 Best Local Similarity 100.0%; Pred. No. 7.6e-21;
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Qy 115 HFDPEACSPRELLEDGYNVYQSEAHGLPL 144
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RESULT 6
 US-09-390-207-4
 Sequence 4, Application US/09390207
 Patent No. 6504530
 GENERAL INFORMATION:
 / APPLICANT: Thomson, Arlen
 / APPLICANT: Liu, Benxian

GENERAL INFORMATION:
 / TITLE OF INVENTION: Fibroblast Growth Factor-Like Polypeptides
 / FILE REFERENCE: 99-371
 / CURRENT APPLICATION NUMBER: US/09/390,207
 / CURRENT FILING DATE: 1999-09-07
 / NUMBER OF SEQ ID NOS: 41
 / SOFTWARE: PatentIn Ver. 2.0
 / SEQ ID NO: 4
 / LENGTH: 210
 / TYPE: PRT
 / ORGANISM: Mus musculus
 US-09-390-207-4

Query Match 14.4%; Score 30; DB 2; Length 210;
 Best Local Similarity 100.0%; Pred. No. 8.7e-21;
 Matches 30; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

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 Db 116 HFDPEACSPRELLEDGYNVYQSEAHGLPL 145

RESULT 7
 US-09-715-805-2
 Sequence 2, Application US/09715805
 Patent No. 6716626
 GENERAL INFORMATION:
 / APPLICANT: Katsanauh, W. Michael
 / TITLE OF INVENTION: HUMAN PGP-21 GENIE AND GENE EXPRESSION
 / TITLE OF INVENTION: PRODUCTS
 / FILE REFERENCE: PR-16758.001/201130.408
 / CURRENT APPLICATION NUMBER: US/09/715,805
 / CURRENT FILING DATE: 2000-11-16
 / NUMBER OF SEQ ID NOS: 17
 / SOFTWARE: PastSeq for Windows Version 4.0
 / SEQ ID NO: 2
 / LENGTH: 210
 / TYPE: PRT
 / ORGANISM: Mus musculus
 US-09-715-805-2

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 Db 116 HFDPEACSPRELLEDGYNVYQSEAHGLPL 145

RESULT 8
 US-09-665-493B-7
 Sequence 7, Application US/09665493B
 Patent No. 6943153
 GENERAL INFORMATION:
 / APPLICANT: Manning, William C., Jr.
 / APPLICANT: Dworki, Varavani J.
 / APPLICANT: Rendahl, Katherine
 / APPLICANT: Zhou, Shang-Zhen
 / APPLICANT: McGee, Laura H.
 / APPLICANT: Lau, Dana
 / APPLICANT: Flannery, John G.
 / APPLICANT: Miller, Sheldon
 / APPLICANT: Wang, Fei
 / APPLICANT: Di Polo, Adriana
 / TITLE OF INVENTION: USE OF RECOMBINANT GENE DELIVERY VECTORS
 / FILE REFERENCE: PP1588.005/20263,401
 / CURRENT APPLICATION NUMBER: US/09/665,493B
 / CURRENT FILING DATE: 2000-09-20
 / NUMBER OF SEQ ID NOS: 12
 / SOFTWARE: PastSeq for Windows Version 4.0
 / SEQ ID NO: 7

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Leu Gln Leu Lys Xaa

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<213> Homo sapiens

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